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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,426	11/24/2003	Gary A. Walpert	93905.120 US2	5113
28089 7590 07/19/2007 WILMER CUTLER PICKERING HALE AND DORR LLP 399 PARK AVENUE NEW YORK, NY 10022			EXAMINER TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	
			NOTIFICATION DATE	DELIVERY MODE
			07/19/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/720,426

Applicant(s)

WALPERT, GARY A.

Examiner

Kenneth Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/5/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-14 are presented for examination.

#### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings filed on 2/5/04 are declared informal drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Russell et al. (hereinafter Russell) (US 5,680,645).**

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4. As to claim 1, Russell teaches a method for operating a cooperative computer system comprising the steps of

interconnecting a plurality of computers along at least one networking interconnection (PC's 10 and 12, col. 4, lines 53-55),

executing at a local computer a received computer program from a foreign computer (downloading the monitor program) when the local computer has capacity to execute said received program based upon local computer operating requirements (col. 2, lines 8-31), and

returning to the foreign computer required information regarding execution of the foreign computer program (col. 2, lines 8-31).

5. As to claim 8, it is rejected for the same reasons as stated in the rejection of claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al. (hereinafter Russell) (US 5,680,645) in view of Stillman et al. (hereinafter Stillman) (US 5,551,066).**

7. As to claim 2, Russell is silent in teaching the step of executing said foreign computer program only when the effect on a local user is minimal. However, Stillman teaches a network monitoring system that has minimal effect on a local user by having network transparency (see Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russell with Stillman because it would improve Russell's network monitoring system by optimizing network control and configuration as well as speed (col. 1, lines 11-14 and col. 2, lines 34-41).

8. As to claim 3, Stillman teaches further comprising the steps of interrupting execution of said foreign computer program to respond to a local user requirement (col. 10, lines 43-57).

9. As to claim 4, Stillman teaches further comprising the step of returning to the foreign computer, after said interruption, sufficient data and context information for continuing execution of said interrupted foreign program on a computer other than the local computer (col. 9, lines 49-67 and col. 10, lines 43-57).

10. As to claim 5, Russell and Stillman teach loading a process from a foreign system to be executed on the local system. Russell and Stillman are silent in teaching the step of adjusting priorities in a multitasking local environment at the local computer for minimizing the effect on

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the local user. Applicant has defined minimizing effect as execution of one process not affecting another process. It would be well known in the art that priorities are adjusted when switching between the execution of different programs and that their execution context must have no effect on each other otherwise their execution context would be corrupted.

11. As to claim 6, Russell teaches a method for operating a cooperative computer system comprising the steps of

interconnecting a plurality of computers along at least one networking interconnection (PC's 10 and 12, col. 4, lines 53-55),

executing at a local computer a received computer program from a foreign computer when the local computer has capacity to execute said received program based upon local computer operating requirements (col. 2, lines 8-31), and

Russell is silent in teaching:

Operating when the effect on a local user is minimal (foreign executing programs on local computer are substantially transparent to the local user, as defined in the Specification), interrupting execution of said foreign computer program when necessary to respond to a local user requirement, returning to the foreign computer, after said interruption, sufficient data and context information for continuing execution of said interrupted foreign program on a computer other than the local computer, and returning to the foreign computer, when there is no interruption, required information regarding execution of the foreign computer program.

However, Stillman teaches a network monitoring system that during the monitoring period, an interruption of execution based on monitoring conditions occurs. Processes are then suspended and execution is resumed after alarm 610 occurs (col. 9, lines 49-67 and col. 10, lines 43-57). The operation is also transparent to network users (see Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Russell with Stillman because it would improve Russell's network monitoring system by optimizing network control and configuration as well as speed (col. 1, lines 11-14 and col. 2, lines 34-41).

12. As to claim 7, it is rejected for the same reasons as stated in the rejection of claim 5.

13. As to claims 9-11, they are rejected for the same reasons as stated in the rejections of claims 2-4.

14. As to claims 12-13, Russell and Stillman are silent wherein said interconnecting means comprises a fiber optic network or a token passing protocol. However, these are well known types of networking systems and one of ordinary skill in the art would have known to use each of them to make use of their unique advantages.

15. As to claim 14, it is rejected for the same reasons as stated in the rejection of claim 6.

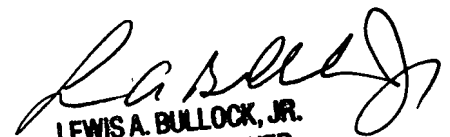
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kt  
7/6/07

  
LEWIS A. BULLOCK, JR.  
PRIMARY EXAMINER